

JJD:MPC
F.# 2012R00261

12-0535M

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - -X

UNITED STATES OF AMERICA

TO BE FILED UNDER SEAL

- against -

COMPLAINT AND AFFIDAVIT IN
SUPPORT OF APPLICATION FOR
ARREST AND SEARCH WARRANTS

ROOLS DESLOUCHES,

Defendant.

(T. 21, U.S.C., §
841(a)(1); and Fed. R.
Crim. P. 41)

- - - - -X

IN THE MATTER OF THE APPLICATION
FOR A SEARCH WARRANT FOR THE
PREMISES KNOWN AND DESCRIBED AS
820 SUFFOLK AVENUE, SUITE 100,
BRENTWOOD, NEW YORK 11717.

- - - - -X

EASTERN DISTRICT OF NEW YORK, SS:

CHARLES K. BERNARD, being duly sworn, deposes and says
that he is a Special Agent with the United States Drug
Enforcement Administration ("DEA"), duly appointed according to
law and acting as such.

Upon information and belief, in or about and between
January 2011 and the present, both dates being approximate and
inclusive, within the Eastern District of New York, the defendant
ROOLS DESLOUCHES, together with others, did knowingly and
intentionally distribute and dispense and possess with intent to
distribute and dispense Schedule II controlled substances, to
wit: oxycodone and oxymorphone, contrary to Title 21, United
States Code, Section 841(a)(1).

(Title 21, United States Code, Section 841)

Upon information and belief, there is probable cause to believe that there will be kept and concealed at the premises known and described as: 820 SUFFOLK AVENUE, SUITE 100, BRENTWOOD, NEW YORK 11717, including any closed or locked containers including safes and other containers secured by locks (the "SUBJECT PREMISES"), which is located within the Eastern District of New York, certain property, namely the items listed in Attachment A all of which constitute evidence, fruits and instrumentalities of violations of Title 21, United States Code, Section 841(a)(1).

(Fed. R. Crim. P. 41)

I. INTRODUCTION

1. I am a Special Agent with the DEA, currently assigned to the DEA's Long Island District Office. As a Special Agent I have conducted investigations of narcotics offenses and health care fraud matters, and have conducted or participated in wire and physical surveillance, surveillance of undercover transactions, the introduction of undercover agents, the execution of search warrants, debriefings of informants, and reviews of taped conversations and drug records. Through my training, education and experience, I have become familiar with the manner in which illegal drugs are transported, stored, and distributed, the methods of payment for such drugs, and the methods by which individuals conceal and secure the proceeds of

such drug activity.

2. I submit this Affidavit in support of the government's application for an arrest and search warrant. Specifically, the arrest warrant seeks to arrest the defendant ROOLS DESLOUCHES and the search warrant seeks to enter and search the SUBJECT PREMISES and to seize the items set forth below in ATTACHMENT A, all of which constitute evidence, fruits and/or instrumentalities of violations of Title 21, United States Code, Section 841.

3. The facts contained in this Affidavit are based in part upon personal knowledge, and in part upon information learned from other sources, such as other law enforcement personnel, confidential sources, eyewitnesses, surveillance, audio and video recordings, physical evidence and other documents recovered and gathered during the course of the investigation, as well as on my experience and background as a Special Agent. Where conversations, statements and the actions of others are related herein, they are related in substance and in part, unless otherwise indicated. Because this Affidavit is submitted for the limited purpose of establishing probable cause to arrest the defendant ROOLS DESLOUCHES and search the SUBJECT PREMISES, I have not set forth every fact that I have learned over the course of this investigation.

4. Based on my training and experience, including the investigation of diversion of legitimately manufactured

pharmaceuticals to unauthorized individuals, I am familiar with various types of legitimate controlled substances in Schedule II of 21 U.S.C. § 812 that are often distributed illegally.

5. Oxycodone and oxymorphone are the generic names for synthetic opioid analgesics, or pain-killers. Both drugs are listed Schedule II controlled substances. 21 C.F.R. § 1308.12(b)(1)(xiii) and (xiv).

II. DESCRIPTION OF THE SUBJECT PREMISES

6. During the course of this investigation, I have observed the SUBJECT PREMISES, including the surrounding area. I have also spoken with other witnesses and law enforcement officers who have entered the SUBJECT PREMISES in an undercover capacity. The SUBJECT PREMISES is the first floor of a two-story, brick structure, located at 820 Suffolk Avenue, Brentwood, New York 11717. The SUBJECT PREMISES encompasses Suite 100 of the building, which is an office space located on the building's first floor. The reception area of the SUBJECT PREMISES measures approximately 25 feet wide, by 15 feet deep, and contains a reception desk in the southeast corner for patients waiting to see the defendant ROOLS DESLOUCHES. On the interior east wall of the SUBJECT PREMISES is a door that leads to at least three examination rooms of unknown dimensions. Scattered throughout the SUBJECT PREMISES are desks, chairs, file cabinets, storage rooms, closets and a bathroom. The office contains both laptop

and desktop computers. Photographs depicting the outside of the building housing the SUBJECT PREMISES are attached hereto as Attachments B and C, respectively.

III. PROBABLE CAUSE TO ARREST THE DEFENDANT AND SEARCH THE SUBJECT PREMISES

7. The defendant ROOLS DESLOUCHES is a nurse practitioner licensed by the State of New York. DESLOUCHES claims to specialize in internal medicine and pain management. Since in or about October 2011, DESLOUCHES has been under investigation for suspected narcotics trafficking. Specifically, the government's investigation has established that DESLOUCHES together with others is distributing and dispensing, and possessing with intent to distribute and dispense narcotics, including oxycodone and oxymorphone outside the scope of professional medical practice and not for legitimate medical purposes from the SUBJECT PREMISES.

8. In January 2012, law enforcement received information from a confidential source (hereinafter "CS-1") that the defendant ROOLS DESLOUCHES was using his medical office located at the SUBJECT PREMISES to distribute prescriptions for oxycodone and other narcotics to various "patients" after performing little or no medical evaluation on those individuals.¹

¹ Much of the information provided to law enforcement by the CS-1 in the course of this investigation has been corroborated by independent and additional evidence. Accordingly, I deem CS-1 to be reliable.

According to CS-1, DESLOUCHES would only accept cash for patient visits and often charged approximately \$150 to \$200 for visits that lasted no longer than five minutes and always resulted in the issuance of a prescription for oxycodone.²

9. According to CS-1 he/she received the defendant ROOLS DESLOUCHES's name and telephone number from a friend, John Doe, an individual who is known to me, who was also a patient of DESLOUCHES's, and who was also prescribed oxycodone by DESLOUCHES on a regular and continuing basis between January 2011 and November 2011. According to CS-1, he/she visited DESLOUCHES's practice for the first time in approximately March 2011. Originally, CS-1 was seen by an associate of DESLOUCHES, a licenced nurse practitioner (hereinafter "LNP-1"). During CS-1's initial visit, LNP-1 failed to conduct any medical history or physical examination on CS-1 prior to writing a prescription for oxycodone. During subsequent visits, CS-1 was seen by LNP-1 who repeatedly provided CS-1 with prescriptions for oxycodone for approximately two months without conducting any medical examinations.

10. In or about June 2011, LNP-1 introduced CS-1 to the defendant ROOLS DESLOUCHES. During the introduction, LNP-1 described CS-1 to DESLOUCHES as "being one of my good patients."

² Interviews with additional reliable confidential sources indicate that DESLOUCHES often charged these individuals between \$250 and \$500 per office visit.

This one is simple." According to CS-1, during his/her first appointment with DESLOUCHES at the SUBJECT PREMISES in June 2011, he/she falsely claimed to DESLOUCHES that he/she had been in an automobile accident. CS-1 indicated that during this first visit with DESLOUCHES at the SUBJECT PREMISES, DESLOUCHES performed no medical evaluation on him/her other than taking his/her pulse and blood pressure, and never asked CS-1 any questions concerning his/her medical background or history. Thereafter, CS-1 paid DESLOUCHES \$150.00 in cash, and DESLOUCHES provided CS-1 with a prescription for 90 tablets of 30-milligram oxycodone.

11. According to CS-1, between June 2011 and November 2011, he/she returned to the SUBJECT PREMISES on twelve separate occasions to obtain additional prescriptions for oxycodone from the defendant ROOLS DESLOUCHES. DESLOUCHES never conducted any medical examination of CS-1 during any of the twelve subsequent visits.

12. On March 20, 2012, an undercover law enforcement officer ("UC") arrived at a scheduled an appointment with the defendant ROOLS DESLOUCHES at the SUBJECT PREMISES. The UC captured the entirety of his/her conversation with DESLOUCHES on the recording device he/she was using. During the course of the conversation, DESLOUCHES volunteered an ailment for the UC. DESLOUCHES failed to perform even a cursory medical evaluation on

the UC with the exception of taking his/her pulse and blood pressure and listening to his/her lungs. DESLOUCHES never asked UC-1 any questions concerning his/her medical background, history or the specifics of the purported injury. Additionally, DESLOUCHES failed to conduct any physical examination of the supposed injured area. DESLOUCHES then prescribed Percocet and an MRI on the thoracic spine. Percocet is the proprietary trade name for a drug whose active ingredients are oxycodone and acetaminophen. The prescription for Percocet was written on the prescription pad of another individual, a doctor with whom DESLOUCHES was associated. The UC observed DESLOUCHES enter information into a computer in the examination room and scheduled an additional appointment for April 7, 2012.

13. On April 7, 2012, the UC arrived at a scheduled appointment with the defendant ROOLS DESLOUCHES at the SUBJECT PREMISES. The UC again captured the entirety of his/her conversation with DESLOUCHES on the recording device he/she was using. The UC explained that he/she did not have the MRI. DESLOUCHES then asked UC if she had the \$450 required for the visit. DESLOUCHES again failed to perform any medical evaluation on the UC during the visit. DESLOUCHES did not ask the UC any questions concerning his/her medical background or history or the specifics of the injury. When the UC asked for oxycodone, DESLOUCHES asked if there was any other drug the UC wanted

because oxycodone was "causing a lot of trouble" and suggested Opana, which is the proprietary trade name for a drug whose active ingredient is oxymorphone. DESLOUCHES stated that Opana was the same as Percocet. The UC paid \$450 directly to DESLOUCHES and in return DESLOUCHES prescribed Opana. Despite DESLOUCHES' concern about prescribing oxycodone, I have reviewed certain records obtained from the New York State, Bureau of Narcotics Enforcement (hereinafter "BNE"). According to those records, between August 2009 and October 2011, DESLOUCHES wrote and distributed approximately 4,349 prescriptions for oxycodone (for a total pill amount of 422,107). That amount equates to approximately 167 prescriptions for oxycodone written by DESLOUCHES each month during that period.

14. I conducted surveillance as recently as May 24, 2012, and observed that the defendant ROOLS DESLOUCHES continues operating out of the SUBJECT PREMISES. Additionally, a review of BNE records indicate that the defendant continues to prescribe Schedule II narcotics to patients. Based on my training and experience, and information obtained from other special agents, I know that businesses typically keep books and records, including, but not limited to the items listed in Attachment A. Such business records, including client files, are ordinarily kept and maintained for extended periods of time. See, e.g., United States v. Singh, 390 F.3d 168, 181-82 (2d Cir. 2004) (finding

probable cause to search for business records despite twenty-month gap between the furnishing of information and the execution of a warrant where the supporting facts present a picture of continuing conduct or an ongoing activity). Such business records are often stored on computer disks, hard drives, and network systems that are also located at the business premises.

IV. ITEMS LIKELY TO BE FOUND AT THE SUBJECT PREMISES

15. Based on the foregoing, my involvement in this investigation, and my training and experience, it is my belief that there is probable cause that the SUBJECT PREMISES has been and is continuing to be used to store instrumentalities, evidence and fruits of violations of Title 21, United States Code, Section 841, including, but not limited to, the items listed in ATTACHMENT A. Additionally, in conducting investigations into medical professionals engaged in the distribution of narcotics the following kinds of drug-related evidence have typically been recovered.

a. Medical professionals engaged in the illegal distribution of narcotics often enter into written agreements with medical professional service providers, including other medical physicians and pharmacies;

b. Medical professionals engaged in the illegal distribution of narcotics often maintain calendars, appointment books, daily logs, co-payment signature sheets, patient sign-in

electronic storage devices, as well as all related peripherals, to permit a thorough search later by qualified computer experts in a laboratory or other controlled environment:

a. Computer storage devices, such as hard disks, diskettes, tapes, laser disks, and Bernoulli drives, can store the equivalent of hundreds of thousands of pages of information. Additionally, when an individual seeks to conceal information that may constitute criminal evidence, that individual may store the information in random order with deceptive file names. As a result, it may be necessary for law enforcement authorities performing a search to examine all the stored data to determine which particular files are evidence or instrumentalities of criminal activity. This review and sorting process can take weeks or months, depending on the volume of data stored, and would be impossible to attempt during a search on site; and

b. Searching computer systems for criminal evidence is a highly technical process, requiring expert skill and a properly controlled environment. The vast array of computer hardware and software available requires even those who are computer experts to specialize in some systems and applications. It is difficult to know before a search what type of hardware and software are present and therefore which experts will be required to analyze the subject system and its data. In any event, data search protocols are exacting scientific procedures designed to protect the integrity of the evidence and to recover even hidden,

erased, compressed, password-protected, or encrypted files. Since computer evidence is extremely vulnerable to inadvertent or intentional modification or destruction (both from external sources or from destructive code imbedded in the system as a booby trap), a controlled environment is essential to its complete and accurate analysis.

17. Based on my own experience and my consultation with other law enforcement agents and detectives who have been involved in computer searches, searching computerized information for evidence or instrumentalities of a crime often requires the seizure of all of a computer system's input and output peripheral devices, related software, documentation, and data security devices (including passwords) so that a qualified computer expert can accurately retrieve the system's data in a laboratory or other controlled environment. There are several reasons that compel this conclusion: The peripheral devices that allow users to enter or retrieve data from the storage devices vary widely in their compatibility with other hardware and software. Many system storage devices require particular input/output devices in order to read the data on the system. It is important that the analyst be able to properly re-configure the system as it now operates in order to accurately retrieve the evidence listed above. In addition, the analyst needs the relevant system software (operating systems, interfaces, and hardware drivers) and any applications software which may have been used to create

the data (whether stored on hard drives or on external media), as well as all related instruction manuals or other documentation and data security devices; and

In order to fully retrieve data from a computer system, the analyst also needs all magnetic storage devices, as well as the central processing unit ("CPU"). In cases like the instant one where the evidence consists partly of image files, the monitor and printer are also essential to show the nature and quality of the graphic images which the system could produce. Further, the analyst again needs all the system software (operating systems or interfaces, and hardware drivers) and any applications software which may have been used to create the data (whether stored on hard drives or on external media) for proper data retrieval.

18. Based on my training, experience, participation in other investigations concerning narcotics trafficking, and discussions with other law enforcement agents, I know that individuals who illegally distribute and dispense narcotics routinely secret and store items of the sort described in ATTACHMENT A in secure locations such as safety deposit boxes, suitcases, safes, key-lock strong boxes, and other types of locked or closed containers in an effort to prevent the discovery or theft of said items. This warrant and this search procedure specifically include the search of any closed containers or cabinets, locked or unlocked, found within the SUBJECT PREMISES.

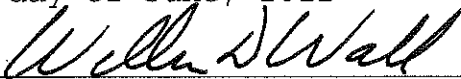
VI. CONCLUSION

WHEREFORE, I respectfully request that an arrest warrant be issued for the defendant ROOLS DESLOUCHES and that a search warrant be issued allowing law enforcement officers to enter and search the SUBJECT PREMISES and to seize the items set forth in ATTACHMENT A to this Affidavit, all of which constitute evidence, fruits, and/or instrumentalities of violations of Title 21, United States Code, Section 841. Due to the nature of this application, I further request that this application and the accompanying warrants be filed under seal.



Special Agent Charles K. Bernard
Drug Enforcement Administration

Sworn to before me this
4th day of June, 2012



HON. WILLIAM D. WALL
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

ATTACHMENT A

Evidence, instrumentalities and fruits of violations of Title 21, United States Code, Section 841, to be seized from the premises known and described as 820 Suffolk Avenue, Suite 100, Brentwood, New York 11717, and any locked or closed containers therein:

- a. any and all documents evidencing agreements with medical professional service providers, including other medical physicians, pharmacies, drug companies, and insurance companies;
- b. calendars, appointment books, daily logs, co-payment signature sheets, patient sign-in sheets, and telephone logs, which might demonstrate when patients visited or contacted the doctor for prescription medications between January 2009 and the present;
- c. Explanations of Medical Benefit ("EOMB") forms showing which patients' claims are being reimbursed;
- d. any and all documents evidencing correspondence or communications with insurance providers and patients, including, but not limited to, provider applications, refund requests, and documents evidencing billing practices;
- e. documents evidencing records of patient visits, dates of service, procedures performed, and billed amounts;

f. insurance provider newsletters containing educational materials concerning proper billing practices and appropriate procedures for distributing controlled substances;

g. any written billing instructions, including but not limited to, what CPT code to bill or what diagnosis to use;

h. copies of any forms used to indicate what services should be billed for a patient's visit;

i. items indicating where the proceeds of the scheme are held or how the proceeds have been used, including, but not limited to, bank account information, and financial records, whether maintained in hard copy or computerized, to include general ledger, general journals, gross receipts and income records, cash receipts and disbursement records and/or journals, sales and purchase records, accounts receivables and payable ledgers, voucher register and all sales and expense invoices including all invoices documenting expenses paid by cash, bank check, and retained copies of any bank checks;

j. all financial statements, bookkeeper's and/or accountant's workpapers used in preparation of corporate records or tax returns. Retained copies of all federal and state income, payroll and excise tax returns, both personal and corporate;

k. prescriptions, patient drug profiles, prescription log books, records of prescription fills and

refills, and Medicaid billing records between August 2009 and the present;

l. address and/or telephone books, rolodex indices and any papers reflecting names, addresses, telephone numbers, pager numbers, fax numbers and/or telex numbers of co-conspirators, sources of supply, customers, financial institutions, and other individuals or businesses with whom a financial relationship exists;

m. any and all controlled substances including, but not limited to, diverted pharmaceuticals including oxycodone, OxyContin, and traces thereof; equipment used to package controlled substances, as well as books, records, receipts, notes, ledgers and other papers relating to the transportation, ordering, purchasing and distribution of controlled substances;

n. United States or foreign currency, or other valuables which represent the proceeds of criminal activity;

o. any computers, computer hard drives, computer notebooks, personal data assistants, cell phones, hand held recording devices, and any other electronic device used to store information; and

p. patient records and files of the individuals identified by their initials in the chart below.³

³ I am aware of the full names of all the individuals identified by their initials in the chart below but the names are not set forth herein to protect the privacy of the individuals. The chart consists of names retrieved from a BNE report and reflects a subset of the defendant's patients who received

FIRST INITIAL	LAST INITIAL
S	A
D	A
J	B
F	B
P	B
E	B
L	B
L	B
C	B
D	B
N	B
K	B
L	B
C	B
G	B
A	B
M	C
R	C
S	C
T	C
F	C
J	C
R	C
C	C
D	C
D	C
J	C
J	C
F	C
A	C
A	C
S	C
A	C
J	C
T	C
K	D
D	D
S	D

Schedule II narcotics on a consistent basis since August 1, 2009. From my training and experience, the records and files of such patients would not and do not contain medical information commonly found in files of patients that were being dispensed Schedule II narcotics for a legitimate medical purpose. To the extent that patients require medical records or files that are seized, law enforcement will make copies of such records available upon request of the individual patient.

L
F
A
J
J
G
R
R
R
A
J
M
D
G
C
D
F
J
C
M
A
S
M
R
B
M
C
M
D
M
J
A
T
P
W
R
G
C
G
B
A
R
R
S
C
M
S
H
G

D
D
D
D
D
D
D
D
D
D
E
E
E
E
F
F
F
F
F
F
G
G
G
G
G
G
G
G
G
G
G
G
H
H
H
H
H
H
I
J
J
J
J
J
J
K
K

MISADPAMLMJVCKMSEJKASRJBWACLRHNMAKKJICCHNJCTDGGJMG

T	W
D	W
A	Y
S	Z
T	Z

ATTACHMENT B



ATTACHMENT C



sheets, and telephone logs, memorializing when patients visited or contacted the doctor for prescription medications;

c. Medical professionals engaged in the illegal distribution of narcotics often misstate the treatment given to justify a prescription. The treatment is often listed in Explanations of Medical Benefit ("EOMB") insurance forms showing which patients' claims are being reimbursed;

d. Medical professionals engaged in the illegal distribution of narcotics often keep and store material evidencing correspondence or communications with insurance providers and patients, including, but not limited to, provider applications, refund requests, and documents evidencing billing practices;

e. Medical professionals engaged in the illegal distribution of narcotics often keep and store documents evidencing records of patient visits, dates of service, procedures performed, and the costs of the treatment;

f. Medical professionals engaged in the illegal distribution of narcotics often instruct support staff on billing procedures including what billing codes to bill or what diagnosis to use. These forms are often kept on file for future reference;

g. Medical professionals engaged in the illegal distribution of narcotics often keep or store cash within the medical office and typically seek to either secrete or launder

the cash proceeds. Typically, medical professionals keep and maintain items indicating where the proceeds of the scheme are held or how the proceeds have been used, including, bank account information, and financial records. This information is typically stored on computers or in books, journals or ledgers;

h. Medical professionals engaged in the illegal distribution of narcotics will either fail to properly maintain patients' medical files and drug profiles or will falsify documents to make it appear that the prescription for narcotics was legitimate; and

i. Medical professionals engaged in the illegal distribution of narcotics also keep and store controlled substances including, but not limited to, diverted pharmaceuticals including oxycodone, Percocet, Opana and traces thereof and equipment used to package controlled substances, as well as books, records, receipts, notes, ledgers and other papers relating to the transportation, ordering, purchasing and distribution of controlled substances.

V. PROCEDURES REGARDING THE SEIZURE AND SEARCHING OF COMPUTER SYSTEMS

16. Based on my own experience and consultation with other law enforcement agents and detectives who have been involved in the search of computers and retrieval of data from computer systems and related peripherals, and computer media, there are several reasons why a complete search and seizure of information from computers often requires seizure of all